



Patent
Attorney's Docket No. 03053-040

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of)	
)	
Kenneth C. CUNDY et al.)	Group Art Unit: 1616
)	
Application No.: 09/974,768)	Examiner: Barbara P. BADIO
)	
Filed: October 9, 2001)	Confirmation No.: 6895
)	
For: BILE-ACID CONJUGATES FOR)	
PROVIDING SUSTAINED)	
SYSTEMIC CONCENTRATIONS)	
OF DRUGS)	

RESPONSE TO RESTRICTION REQUIREMENT

Assistant Commissioner of Patents and Trademarks
Washington, D.C. 20231

Sir:

In complete response to the Office Action of March 19, 2003, a Petition Under 37 C.F.R. § 1.136 (a) for two month being filed herewith extending the period for response from April 19, 2003 to June 19, 2003, Applicants submit the following response.

In the Office Action, the Examiner sets forth an election of species requirement. Applicants respectfully traverse the election of species requirement as set forth in the Office Action.

Applicants respectfully submit the compounds of the Markush group are so closely related, that a search and examination of the entire claim can be made without serious burden. Applicants note that a proper search of the common backbone would, by necessity, require a proper search of the entire Markush group as presently defined. Thus, Applicants submit that the entire Markush group as presently claimed can be searched simultaneously, and that a duplicative search, with possibly inconsistent results, may occur if the restriction requirement is maintained.

Applicants submit that any nominal burden placed upon the Examiner to search accordingly to determine the art relevant to Applicants' overall invention is

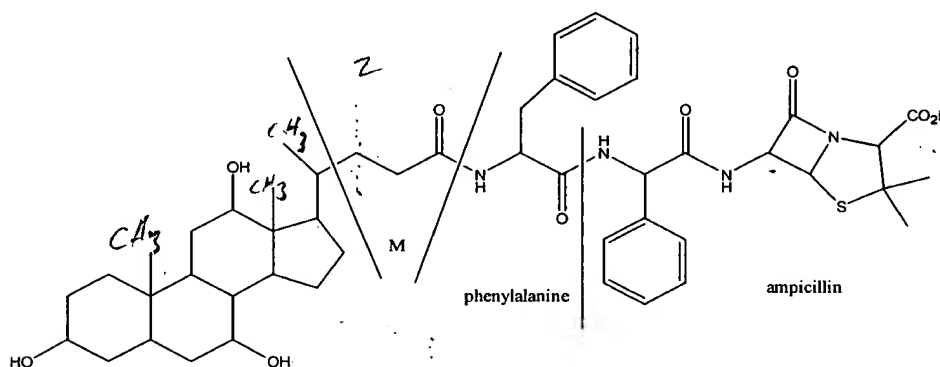
significantly outweighed by the public's interest in not having to obtain and study many separate patents in order to have available all of the issued patent claims covering Applicants' invention. The alternative is to proceed with the filing of multiple applications, each consisting of generally the same disclosure, and each being subjected to essentially the same search, perhaps by different Examiners on different occasions. This process would place an unnecessary burden on both the Patent and Trademark Office and on the Applicants.

Nevertheless, in order to comply with the requirements of 37 C.F.R. § 1.143, Applicants indicate below a provisional election of one species for examination. Accordingly, Applicants elect, with traverse, the compound of formula I wherein:

X is hydroxy and

Z is (ii) a group of the formula $-M-Q^{x'}$ wherein $Q^{x'}$ comprises the amino acid phenylalanine (as disclosed on page 35, line 6 and in Figure 4 in compounds 9g and 9p) and drug D' wherein D' is ampicillin (as disclosed on page 36, line 15).

In particular, Applicants elect the following compound of Formula I, with select portions of the compound labeled for the Examiner's convenience:



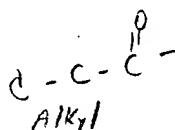
wherein:

X is hydroxy;

R^1 is hydroxy;

R^2 is hydroxy;

Z is (ii) a group of the formula $-M-Q^{x'}$ wherein M is $-CH_2CH_2C(=O)-$ and $Q^{x'}$ comprises the amino acid phenylalanine (disclosed on page 35, line 6 and in Figure 4 in compounds 9g and 9p) and drug D' wherein D' is ampicillin (as disclosed on page 36, line 15).



It is believed that claims 1, 3, 4, 6, 8 – 10, 12, 13, 15, 17, 18, 20, and 23 are readable upon the elected species as defined above. Applicants have no intention of abandoning any non-elected subject matter and expressly reserve the right to file one or more continuation and/or divisional applications directed to the non-elected subject matter.

The Examiner is invited to contact the undersigned at the below-listed telephone number, if it is believed that prosecution of this application may be assisted thereby.

Respectfully submitted,

BURNS, DOANE, SWECKER & MATHIS, L.L.P.

By Mel. M. Hayworth
Melissa M. Hayworth
Registration No. 45,774

P.O. Box 1404
Alexandria, Virginia 22313-1404
(703) 836-6620

Dated: Jun 6, 2003